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H – 1007

International Court of Justice

H1007 – 0001

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H1007 - 0002

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

6 July 1946

COMMISSIONER:

Colonel A.M.S. Neave

THE S. S.

(THE COMMISSION CONVENED AT 1055 HOURS.)

FREIHERR FRIEDRICH KARL von EBERSTEIN, a witness, took the stand and testified as follows:

BY THE COMMISSIONER:

Q Witness, will you state your full name?

A Freiherr Friedrich Karl von Eberstein.

Q Raise your right hand and repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE COMMISSIONER: You may sit down. Dr. Pelckmann, will you give us a brief statement of the matters this witness is going to bring up?

DR. PELCKMANN: First of all, the reasons behind the carrying out of the shootings of the 30th of June 1934.

THE COMMISSIONER: Wait one minute. Is this the first witness we have had regarding the SS shootings?

DR. PELCKMANN: No.

H1007 - 0003

THE COMMISSIONER: Who was the other witness?

DR. PELCKMANN: That was Joehnk. The witness Joehnk was a man who participated in the shootings while this Freiherr von Eberstein was a so-called Oberabschnittfuehrer at the time of these shootings.

THE COMMISSIONER: Will you try to be careful and not cover the same matters?

DR. PELCKMANN: Yes Sir. Second, the non-participation of the SS during the demonstrations of the 9th of November 1938 and special consideration of written orders by Heydrich; third, the position of the Higher SS and Police Leader within the country, that is, within the Homeland. He did not have any power or jurisdiction over the police and was not in any way responsible to the concentration camps.

H1007-0004

4) The action against Dr. Rascha and the biological experiments.

COLONEL NEAVE: Dr. Pelckmann, your first point I think should not be very long as it has been largely covered here. As far as the event of 1938 goes, we had a certain amount of evidence on that already. In regard to the other two matters, I want to warn you we have one until one o'clock today to finish the witness, including cross examination.

DR. PELCKMANN: Of course, I will attempt to be as brief as possible. It is true that concerning the events of November 19, 1938, we did have some statements at various times from some witnesses, however, we never had any specific evidence given by anyone concerning the orders and what happened that night.

COLONEL NEAVE: Let us get on.

DR. PELCKMANN: First, in case, I am not finished with this witness, I would like to point out that this witness arrived here on June 19th and it was impossible to bring him here earlier. I believe in a special case like this that the court may extend the period over the July 6th date.

COLONEL NEAVE: I don't call this case exceptional ~~one~~ at all if the witness has been here since June 19th. I think the thing to do now is to get started on the examination.

BY DR. PELCKMANN:

Q Witness, before we start I want to repeat to you the request of the court that we be as brief as possible.

Give the dates and organizations to which you have belonged.

A I entered the party in October of 1922. I entered the SA in 1925 and remained until 1926. I then belonged to it again from 1930 to 1933.

H1007 - 0005

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I entered the Allegemeine SS in 1928 until 1930 and then again in 1933 and I remained in it until 1945. I entered the Waffen SS on the 1st of July, 1944 and remained with it until the end of the war.

Q What position did you have in June 1934.

A At the time I was in charge of the SS Oberabschmitt Mitte in Dresden. I did not have a public position.

Q Were youused on June 30th, 1934 with the SS units in your Oberabschmitt?

A No, a week before the June 30th event, I was called to Berlin by plane to Himmler's headquarters. He told me that Roehm was planning a putsch. I was also told to get in contact with the army district commander and also to have some kind of quiet alert within the Allegemeine SS in my Oberabschmitt. I am speaking of the directives I received From Himmler at the time, I was told that in case the official alert was given the Allegemeine SS units under my command were to be as far as possible in Barracks, either in the Barracks of the Reichswehr of the army or of the police, however, we did not participate in it since it was relatively quiet in Saxony.

Q On July 1, 1934 eight members of the SA party were shot. Is that correct?

A Yes, there were members shot on July 1,1934.

Q Did you see such an order of execution? How did it happen and whose signature did it have on it?

A Yes, I did see such an execution order on June 30th. Obersturmbann-fuehrer Bente of the SD,who was not under my jurisdiction, came to me with a

H1007 - 0006

request for advice, which I was supposed to give as a friend of his. It was completely unclear this report on the names of the 28 persons and we were not sure whether these people were to be arrested or shot. I therefore advised them to make a decision as to who was to be arrested and who was shot. I therefore advised that a decision should be made as to who was to be arrested and who was to be shot, as this order was not clear to me. He told me it was a special order from Heydrick. I therefore asked him to immediately request more detailed information from Heydrick in Berlin and I warned him not to make any quick decisions. Thereupon courier was sent by car to Berlin to Heydrick and he returned later on with an order to execute eight not twenty eight members. The report stated as follows: "On order of the Reichs Fuehrer of Germany, the following named: (The names followed) are to be executed for high treason. Under that was the signature of Heydrick, the signature which I knew personally and this order contained the seal of the office that had issued this order.

Q Did you have, after receiving this order, any kind of thoughts as to whether this order was lawful or not?

A No, I did believe that there was such a putsch planned and especially since I had been advised of this putsch by Himmler personally. Moreover I had seen the signature of Heydrick personally and I knew what position he had. In addition to that, it was impossible for me to have a view of the entire happenings within Germany and I had a relatively small view. In addition, these eight people were well known to me as bad elements

H1007 - 0007

and terrorists.

Q Do you want to tell us once more in a short timewhat role you and the Allegemeine SS played in Saxony at that time?

A I carried out an orderly discussion with the army district chief personally. The Allegemeine SS, after the alarm had been sounded, was brought together in the barracks and stayed there during the critical days. I know for instance that no SS men were on the streets during these days. For instance in Dresden, the largest town they were in the barracks and were in the police barracks and the arrests were carried out by the Beveitschafts-group. The executions were carried out by the Reichsgruppenfuehrer of Saxonia.

Q What position did you have on November 9, 1938

A I was SS Obersturmbannfuehrer south in Munich, also since 1936 I was police president of Munich, also since 1937 I was chief of police in the office of the Minister of the Interior in Bavaria.

Q Where you in the main ballroom of the old city hall in Munich at the time Goebbels was supposed to have made the speech which resulted in the demonstration of November 9th?

A No, I was not present during that speech. I had to escort Hitler to his home and later on did not return to the ballroom since I was in charge of the security measures and the street blocks which were put up in Munich for the swearing in of the SS.

Q Where did you hear for the first time of demonstrations against Jewish stores?

A I received the first report or the first indication that something

H1007 – 0008

like that might happen when I was told around 2330 that evening that a synagogue was burning. I was also a few moments later told by the Landradt of the area administration that the Castle Planeck was burning and the police were asking for reinforcements.

I immediately ordered Brigadefuehrer Diehm to go to the synagogue. I also ordered a riot squad to go to the Castle Planeck. I personally could not leave my position as I expected Hitler within a few moments.

Q When did you hear of the actual happenings of these demonstrations and what did you do about them?

A Around o130 hours and it was now the 10th of November, I was immediately ordered to come to Himmler inthe Hotel Vierjahreszerten where other high SS leaders were. I was told there by the assistant Gauleiter of Munich, Niepold, immediately after Hitler and I left the ballroom, Goebbels had started a hate speech against the Jews, which resulted in these demonstrations. He asked me to help him and both of us immediately entered a car and drove through the city in order to get some kind of indication as to the extent of these demonstrations. I notice that a big Jewish store, Bach's, was burning and that the fire fighters were working at the fire. I immediately aided the fire fighters there and was nearly killed through furniture that was thrown out of the top floors. I then drove on a way and talked with the antique store owner, Bernheimer and we through out some people that had entered the store.

COLONEL NEAVE: This is a very graphic description of the events of

H1007-0009

November 9th, 1938, but I think it should be confined to a little less personal reminiscences and more to the actions of the SS as a whole.

We will recess for five minutes and Commissioner Taylor will preside.

(THE COMMISSION RECESSED AT 1130 HOURS.)

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(FOLLOWING RECESS.)

COMMISSIONER TAYLOR: Proceed with the examination.

DIRECT EXAMINATION * RESUMED.

BY DR. PELCKMANN:

Q You were in the process of telling us that fire fighters were fighting the fires throughout the city.

A Immediately after seeing what happened, I called all available police forces into the streets. The Allgemeine SS, which was in the process of formation and leaving. I immediately ordered all Jewish stores to be put under police guard. I also ordered that all streets were to be cleared of pedestrians and directed the local repair organizations to immediately nail up the damaged stores in order to prevent any kind of theft. I immediately carried out these actions in my function as police president. I want to state here and now and I am under oath that I had no previous knowledge of these demonstrations.

Q Did you get the riot squad to go out to the Castle Planeck, belonging to Hirsch and arrest the participants?

A As I stated before, immediately upon being informed by the Landrat, I sent out the riot squad with the duty to arrest the culprits and to bring about law and order and to put out the fire.

Q Did you give any sort of orders to the Allgemeine SS, which was under your command?

8

H1007-0010

A Yes, I immediately, as I stated already, sent the Abschmittefuehrer to the synagogue. I expressedly forbade any member of the SS to participate in these demonstrations and I threatened severe penalties.

Q What was he supposed to do at the Synagogue?

A I sent Abschmittefuehrer Dean there because the fire fighters were being hampered and I wanted him to prevent that.

Q Do you know that in a teletype message to all Gestapo officers and offices Heydrick mentioned the possibility that members of the Allgemeine SS might be used for police duty?

A I did not hear of this teletype message at the time and as I have already stated I was constantly in the streets, however, it is possible that I did not read the teletype message the next day in police headquarters. I want to state here that I did not receive any kind of request from the Gestapo for use of the members of the Allgemeine SS.

Q In other words you did carry out all these measures to prevent the demonstration and everything in your power as police president and Obersturm bannfuehrer of the SS?

A I acted completely independant as I did not receive any orders from headquarters. I acted in my capacity as police president, as a German civil servant and as a decent person.

Q Did members of the Allgemeine SS participate in the demonstrations against your orders?

A I know that no members of the Algemeine SS participated in these measures, with one exception when about twelve or fifteen members of the SS Riding School Fegelein, members not under my jurisdiction but under the leadership of the well known Christian Weber went out to Munich went out to

H1007 -0011

the Castle mentioned and fired that castle. This occured without my knowledge. I reported these matters directly to my superior Minister Wagner in order that a court proceedin s be started against these people. This report was without any results since Weber, the personal responsible for this action, was one of the few very close friends of Hitler.

Q Did you have any information of the action of the Allgemeine SS in the other cities of Bavaria?

A Yes, the next day from reports which came to the Inner Police Department of the Ministry of the Interior in Bavaria, I saw reports that the SS in Nurnberg did not participate in these demonstrations. The Oberfuehrer Dr. Martin acted very severely against these demonstrations.

Q One other point, what can you say about the activities of the Allgemeine SS during the war?

A The duties within the Allgemeine SS subsided almost completely during the war and all the staffs up to and including the Standartenstaff were closed down. Before the war there were 10,000 Allgemeine SS men in my area and when the People's army was called up during the war there was only 1,200 men remaining in my area. My command was over an entire army corps district. All these 1,200 men were active in the war industries and could not be called together for any kind of SS formations anymore.

Q When you say Kriegeinsatz, you mean the Civil war activities?

A Yes, the only support within the Allgemeine SS was the support that was given to the SS welfare organization, which helped the wounded and also helped the familes of our dead. Even for that, there were not enough members and we had to use supporting members, which were not even members of the SS and even women for this job.

H1007-0012

A A single mission which was carried out in Munich during the war showed a total number of 150 participants. In the war there were a total of two oberabschmitt staffs in my area, one in my area in Augsburg, with two or three men, and one in Munich with four or five, and my oberabschmitt staff in Munich contained forty-five persons, including female helpers.

Q Since when were you a higher SS and police leader?

A I was suggested as a higher and SS police leader through the order of the Reich Minister of the Interior since 1938. This decree given out in 1938 was part of the mobilization decree which was a top secret. Actually, I only became reichsfuehrer of the higher SS and police leaders in 1939, when the war started.

Q Did you in that position as higher SS and police leader have any jurisdiction over the Allgemeine or the Waffen SS?

A Any kind of jurisdiction of the higher SS and police leaders of the Allgemeine SS was at the same time by the chief of the Oberabschmitt of the Allgemeine SS. The higher police leaders did not have any jurisdiction over the Waffen SS.

Q Were there any cases in which the higher SS and police leader was not at the same time Oberabschmitt-fuehrer of the Allgemeine SS?

11

H1007-0013

A For instance the higher SS and police leader Heissmeyer in Berlin was not the oberabschmittfuehrer in that area of the Algemeine SS. I also was higher SS and police leader until January 1943 of the corps area not only in area 13 which belonged to the SS oberabschmitt 9, even though there was an oberabschmittfuehrer here, first obergruppenfuehrer Schmause and then obergruppenfuehrer Dr. Martin.

MR. TAYLOR: What time was agreed upon for cross examination of this witness?

MR. ELWYN JONES: We haven't gone into details about that but I should like a half an hour, which is five times more than the defense should take.

DR. PELKMANN: I believe that the order of the Court cannot be taken quite so literally as to mean that if the witness is in the middle of examination or of cross examination at one o'clock this afternoon that he would not receive another half hour or an hour on Monday, and since this witness is a civilian witness -

MR. ELWYN JONES: I should be glad to limit my cross examination to half an hour and I should hope that the defense could finish his direct examination.

MR. TAYLOR: You understand, doctor, this commission goes out of operation at one o'clock today, and it is my understanding that Commissioner Colonel Neave has advised all defense attorneys that the time of three hours would

H1007 - 0014

be the limit for each witness.

BY DR. PELKMANN: But this witness did not start at ten o'clock.

MR. TAYLOR: I am pretty sure that defense counsel can get the rest of his questions in here that are material to the defense by twelve-thirty, and the Prosecution will then have thirty minutes for cross examination, and after that, if they want to use him again, I take it you have the privilege to make application to the Commissioners for that further examination. At this time the Commission is asking that the Defense/~~xxxxxxx~~ condense his questions and get everything you can within the next thirty minutes so that the Prosecution will have the remaining thirty minutes for cross examination.

DR. PELKMANN: I will try to condense my questions. However, I do want to state that since the witness was approved for me to be heard today, and actually since the witness did not start at ten O'clock I did not get the three hours of examination which are otherwise permitted.

MR. TAYLOR: Doctor, the three hours permitted by Colonel Neave was both for direct and cross examination, and the attorneys have had sufficient time within the last week or two to know that. Proceed with your examination.

DR. PELKMANN: But this witness does not even get three hours for direct examination.

H1007 - 0015

MR. TAYLOR: Let's proceed with the examination.

BY DR. PELKMANN:

Q Describe shortly the duties andactivities of a higher SS and police officer in Germany?

A It was the duty mostly of the higher SS and police leaders to be the representatives of the Reichsfuehrer of the SS and Chief of the German Police in this particular army or corps area when in Germany.

Q According to the outlines of the duties of this higher SS and police leader in 1938, this higher SS and police leader had the right, but not the duty to carry out suggestions and make suggestions?

A He did not have any jurisdiction over the police or the Waffen SS. That was in the directive of the Reich Minister of the Interior of 1938. According to this order the main office Chief, for instance, the chief of the main office of the order police and the police of the main office of the security police were the official chiefs of the above mentioned police forces. They, according to the very clear order, were the representatives of the Reich Fuehrer SS for those organizations. They used the channels of their own organizations and besides that was the channel of the Reichsfuehrer SS. I have given the defense a sketch of these channels. The orders and decrees that went to them came to the knowledge of the higher SS and probably the officials and only for information. The higher SS and

H1007 - 0016

police leaders did not have any staffs, they were only carried by the Reich Minister of the Interior as members of the order police, that is in their own personal position, that is, until the year 1941, when they became generals, that is, major generals of the police. All war workers were xxx commandeered. Therefore, the higher SS and police leaders can be described best as local officers of the Commanders. They had much too little responsibility and jurisdiction for such a job. I regard the creation of a position of the higher SS and police leaders as a futile effortof Himmler to create a state security corps. This state security corps was never actually carried out or organized. The Prosecution uses as one of it's exhibits the book, the Die Deutsch Polizei by Dr. Best, and the pocket calendar given to the security police as part of xxxxx it's exhibits against the Gestapo. What Dr. Best writes in that book is incorrect since he goes from the standpoint of a state security corps that is organized in the State. Especially striking on these SS and police leaders was the influence of the local gauleiter, who carried out their position as Reich defense Commissar and as the Minister of the Interior of these States. In xxxx many ways these Gauleiters in their position as Reich Ministers received all kinds of aid from the Almighty Borman, while

H1007 - 0017

higher SS and police leaders did not receive any kind of aid or help from Himmler. I cannot make any statements as to the activity of the higher SS and police leaders in the occupied countries since I do not have any personal experience as far as that is concerned. The duties were the following:

First of all the duties were as follows: The higher SS police leader was a direct representative of Himmler, at all official functions of the party, the state or the army. Actually it was his duty to insure close cooperation between all offices under Himmler in the area of the party, state and army. Thirdly, the higher SS and police leaders had to insure a close cooperation between both SS and police as a unified course in big events, such as security measures and the road blocks and cutting off of certain areas during any kind of party duties, state visits or catastrophies. Also he had to take the position of gerichtsherr in the SS and police court of his particular corps area. He did not have, however, the position of gerichtsherr due to his jurisdiction, but only since he was the highest ranking SS and police officer in his own area, that is unlike the position in the army. He did not have any disciplinary powers of the SS and police. He only had disciplinary powers on the Allgemeine SS and he was oberabschmittsfuehrer, and, fifth, it was his duty to combine the SS and police units upon the order of the higher SS and police leaders in order to throw down any interior demonstrations and riots. Since

H1007 - 0018

1943 the Reich Defense Commissars were responsible for that also.

Q Were there any such cases of interior disturbances?

A No, never.

Q In other words, if I understand you correctly, you did not have any jurisdiction and power to order at all, but you only had the position and chance and possibility of inspection and you could make suggestions?

A Yes, the higher SS and police leaders did not have any jurisdiction.

Q The witness, Albart, before the Commission stated on the 11th of June, as a witness for the Gestapo, that there was a liaison man with the higher SS and police leaders who insured the use of concentration camps inmates for industrial work, is that correct?

A There was no such liaison man connected with my office and I do not know of any higher SS police leaders that did have such a liaison man. The use of the concentration camp inmates was regulated by the local employment offices in connection with the concentration camp headquarters.

Q Were you responsible for work camps of the concentration camps?

A No, I do not even know the detail of work camps. I suppose they were the camps that were created near or

H1007 - 0019

with the national defense industries where concentration camp inmates were used for ~~fax~~ work for these national defense industries.

Q In this area was the concentration camp Dachau. Did you have anything to do with ~~thax~~ this camp officially?

A This concentration camp Dachau was in my area. However, until the fall of 1944 the higher SS and police leaders and also the oberambschmittsfuehrer of the Allgemeine SS did not have anything to do with these concentration camps. The concentration camp was a completely independent and ~~separatexer~~ separate organization and area with it's own channels of communication and so forth.

Q Did you ever hear of any mass extermination in the concentration camp Dachau?

A No never.

Q In the trial in the main court an affidavit by a Mr. Mildner was presented with the following contents:

According to this the deportation of Jews sent to work in the concentration camps of Jews in the Reich or in the areas that were occupied by German army units, these orders came from the Reichsfuehrer SS Himmler. These orders were also directed to the local higher SS and police officers. It continues and I skip over a few lines: "The liaison man of the Jewish questions to the higher ~~police~~ SS and ~~pl~~ police leaders was oberstumbamfuehrer Eichmann."

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H1007-0020

I quote from the document PS 2376, is that correct?

A As far as I know these orders went diredtly to the State Gestapo office and the Gestapo main offices.

Q Was Eichmann a liaison man with you.

A I don't know Mr. Eichmann and never heard of him with the exception of this trial. There was no necessity for a liaison man of Himmler concerning the Jewish question.

Q Why?

A Because we had nothing to do with him.

Q Do you know that biological experiments were carried out in the concentration camp Dachau on human beings?

A I did not know it until the spring of 1944.

MR. TAYLOR: I think that is enough. There is nothing for him to explain about ~~it~~ it if he don't know anything about it. If it is what he knows now that is hearsay ~~xxxx~~ and wouldn't be admissible .

DR. PELKMANN: The witness is going to explain now that he did hear it.

MR. TAYLOR: What year is that?

DR. PELKMANN: In the spring of 1944.

MR. TAYLOR: ALL right, proceed.

WITNESS:

A I did accidently hear in the spring of 1944 while concerning myself with an investigation with the wife of the Haupstumfuehrer, Dr. Siegmund Rascher. A criminal police in Munich asked me to give him or receive a permission to

H1007 - 0021

enter the concentration camp because a lead was leading towards it. I forced them to give me such a permission with the inspector for the entire concentration camp at Oranienburg, who was responsible for the administration of all concentration camps. According to ~~xx xxx~~ the camp commander the camp chief medical officer and SS Fuehrer they very willingly explained some very interesting far reaching experiments upon living human beings.

MR. TAYLOR: Let's have him get to the point and answer the question without all of that detailed explanation.

BY DR. PELKMANN:

Q Did you bring about the arrest of Dr. Rascher?

A Yes, I caused the arrest of Dr. Rascher since he was the responsible person, and, therefore, saw to it that this crime was not carried out any more.

Q ~~XXXX~~ Is it correct that all investigations were very difficult in this matter since Himmler was well acquainted with the family of Rascher.

A Yes, the criminal police had asked me for my cooperation and Himmler personally made the strongest accusations against me because of that.

MR. TAYLOR: Doctor, it is twenty minutes to one and I think we should start cross examination which will now carry us over to one-ten.

H1007 - 0022

DR. PELKMANN: However, I want to point out especially that I do request that I be permitted to continue to hear this witness again later on within the next few weeks.

MR. TAYLOR: That request, Doctor, you can make to the Commissioner, but he has asked me to close today at one o'clock as far as witnesses in this commission are concerned, and we are supposed to close at one o'clock. We will proceed with cross examination.

CROSS EXAMINATION

BY MR. ELWYN JONES:

Q What did you charge Rascher with?

A It concerned the question of his wife and at that time I heard accidently from the leader out there that Rascher carried out such criminal experiments.

Q I asked you what you charged him with?

A He was charged with unclean business activities and that was one of the matters that were taken into consideration or one of the matters he was charged with, and, thereupon, I reported this to Himmler who decided that the person was to come before a trial. However, I personally could not directly charge him with anything.

Q What happened to Rascher?

A Himmler, as the highest officer took the case under his own jurisdiction and I personally could not do anything about it, even though I protested several

H1007 - 0023

times, and this case was never handed over to the Courts by Himmler.

Q And that was typical of conditions in the Nazi State and typical of the SS view of these murders, wasn't it? That you should charge these mass murderers with mere fraud and that the fact he should not even be tried by a proper authority ~~xxx~~ even upon ~~xxxxxxxx~~ fraud.

A I do not know anything of that, but the criminal was arrested and that he was not sentenced was caused by the Reichsfuehrer of the SS.

Q How often did you go to Dachau to the camp?

A I went to Dachau very often since I had to escort visitors, both foreign and national figures there, as a representative of the Reich Commission.

Q When did they start exterminating people at Dachau? I asked you when did they start exterminating people at Dachau?

A I already have stated to the defense attorney before that I did not know anything of mass exterminations.

Q When did you discover they were going on?

A When I asked concerning Dr. Rascher.

Q I am asking you when did you first discover people, especially Jews, were being exterminated as a deliberate policy of the Nazi party?

A As I have already stated I only heard of the criminal action of Dr. Rascher in the spring of 1944. If there were Jews I do not know.

H1007 - 0024

Q Do you know anything of an investigation Commission from the SS court, which is supposed to have made some inquiry into conditions of the concentration camps?

A Yes, I know that from descriptions of my comrades.

Q Did you take any part in that also?

A No, I did not participate.

Q It was a curious thing, as you see, you are a higher SS leader and police leader, where this terrible camp Dachau was and you didn't know anything of this?

A I can't say anything concerning this.

Q Well, this Commission, according to the witness we heard yesterday, was supposed to have been operating in 1943.

A In 1943 I did not have the official right to be officially active in concentration camps. I did not have a possibility of knowing.

Q Did you ever make any inquiry to try to find out what was going on there?

A I did not have the possibility, Mr. Prosecutor, to bring about any such investigation.

Q You could send your men into camp at any time, couldn't you, as you did in the Rascher inquiry.

A As I have stated already it was not possible for me to send a person in any time, after I received it. As I have stated already I forced them more or less to give it to me by sending them a teletype message in Oranienburg

H1007 - 0025

saying to him I ~~xxxfxxl~~ was following up a criminal case and that it was necessary that I enter the concentration camp. Of course, I had to have their permission.

Q You stated you took no part in the pogrom of November, 1938?

A I did not participate.

Q I suggest to you that the SS in particular operated that pogrom as against the Jewish people in Germany?

A That was not the case in Munich.

Q Did you not receive from Heydrick an instruction from Munich telling you exactly ~~xfxthx~~ what functions of the police were to be during this horrible incident, the blackest mark in German history?

A I suppose the Prosecution is referring to a teletype message.

Q I think you know quite well what I mean.

A I did not see this teletype message during the demonstration since I was in the States.

Q But you see it was sent to all headquarters and stations of the state police and to all districts and subdistricts of the SD. How is it you did not receive a copy of it before the riots took place? For the purpose of the record I am referring to 3051 P S Exhibit U S 240.

H1007 - 0026

A In November, 1938, I had no relation whatsoever with the security police and the Gestapo/and if I did see it later on, a matter which I do not deny, this letter was without any very great importance to me since the riots had ended already due to my intervention in Munich.

Q So it is your impression that you did receive this teletype but not until after the riots were over, is that your testimony?

A I did not state I received the letter. It is possible I said that I did see it later on, that somebody brought it to my attention.

Q I am just trying to get a frank statement from you about it is all. Did you see this or did you not?

A I don't know. I don't want to deny that I saw it, it is possible that the Gestapo Chief showed it to me but it did not interest me any more since the whole matter was finished already.

Q Let me just remind you what the instructions were that Heydrick was giving for this program. He says:

"The Chiefs of the State Police and their deputies must get in telephonic contact with the political leaders, gauleiters and kreisleiters, who have jurisdiction of their districts, and shall arrange a joint meeting with to discuss the chief of the security and order police/this organization of the demonstration."

H1007 - 0027

Now those are the instructions that at any rate were sent to the headquarters of the state police. I want to ask you did you in fact contact the political leaders after this teletype ordered you to?

A I was not a member of the Gestapo at the time. I did not receive the letter during the action, and, therefore, did not make any contacts with the political leaders.

Q You see the fourth paragraph, it says:

"In order to carry out these mearues, all security police, officers of the criminal police, as well as members of the SD and verfuegungstruppe and the Allgemeine SS may be used."

Now that, I suggest, established quite clearly that the SS was directly implicated in the program of November, 1938?

A. I want to refer back to my statement I made before. If I am correctly informed the document has the date of the 10th of November, 1938, at four-thirty in the morning, and at that time I was in the street attempting to end these demonostrations as fast as possible.

Q I am suggesting to you that the document shows quite clearly that/the SS played an active role in the perpetration of these atrocities in November, 1938.

A I did not order out any SS units and so I do not know of participation by SS members with the exception of

H1007 - 0028

the twelve or fifteen men I have already mentioned in these demonstrations in Munich.

Q Did you ever serve as a higher SS and police leader outside of Germany?

A No, I was not. Since 1936 until 1945 I served without any interruption in Munich.

Q Did you have any knowledge of the activities of this order in Poland, for instance?

A No.

Q Were you not getting reports from the various police organizations as to what was going on in the East of Europe?

A I received some reports of activities from the main office of the order police, but I believe in about 1941 these reports stopped coming in.

Q Did you get no reports from the Einsatz Commanders on their perpetration of [redacted] mass murders?

A No, I cannot remember having received any such reports. We in the homeland were not concerned with this.

Q Now the last point I have time for. How many men were murdered on the 30th of June 1934?

A I know of six persons who were shot in Dresden, and I heard later of two persons who were shot in Chemnitz and one in Planen.

Q Do you mean to say you only know of ten persons who were shot on this day?

H1007 - 0029

A In my area that is all I heard and otherwise concerning the rest of Germany I only heard what Hitler said in his Reichstag speech.

Q Will you agree with Wilhelm Frick who says that something like a hundred and even more were killed?

A Since I did not have a chance to see ~~it~~ the entire matter I cannot make any certain statements of numbers under oath.

Q You are not suggesting to the Commission, are you, that these murders were a legal activity, the murder of Schleicher, for instance, or Gregor Strasser, and the rest of them, you are not suggesting that those murders were legal?

A I do not know what the circumstances leading to the shooting of Schleicher and Strasser were.

Q You know the circumstances quite well. They were shot on the spot. Are you suggesting that those shootings were legal?

A I can't charge that?

Q But can't you charge it?

A The persons that were shot in my area were shot according to an order which I had in my own hands according to the ReichFuehrer and Hitler.

Q They were shot because you saw a piece of paper which had on the bottom the signature of Heydrick on it, and which stated that people should be killed, and that

H1007 - 0030

is all you knew about it?

A I say that the matter became even more legal due to the speech of Hitler before the entire German people in which he stated that the German government considered these shootings as legal and at that time still the Reich President Von Hindenburg agreed with that.

Q And since Hitler made a speech several days after these murders took place you were quite happy about it?

A I only can make statements concerning what I have seen personally and what happened to me personally. There in my area these persons were wild terrorists. They were persons that even acted against the Party and State and they beat up policemen and smashed up large stores and so on.

MR. TAYLOR: That is not responsive to the question. Counsel didn't ask you for an explanation, he asked you whether or not when you heard Hitler's speech it made you happy. Just answer the question "yes" or "no."

WITNESS:

A I was not happy about it but I was giving an explanation of the Reich Government.

BY MR. ELWYN JONES:

H1007 - 0031

BY MR. ELWYN JONES:

Q Those shootings of the 30th of June were appalling, weren't they?

A I did not see them personally, but I will agree that all of these things were appalling and all of these inner political ~~fighting~~ fights were always appalling.

Q These were not political matters, they were plain murders, that is what they were?

A I am not of the opinion that this was murder, since in this case there had been a state emergency that the state had declared, and, therefore, I did not regard them as illegal.

MR. TAYLOR: The commission will adjourn.

(The Commission adjourned at 1315 hours 6 July 1946)

Com A
3 - 21
Cook
1200 - 1315
6 July 1946
Eberstein

H1007 - 0032

The foregoing is a true and correct transcript of the testimony of KARL EBERSTEIN taken on 6 July 1946.

Mabel A Lesser
Reporter (p 1-10)

Chas W Cook
Reporter (p 11-30)

Reporter (p)

CERTIFIED TO:

A W Sheaver
Commissioner Stwl

Commissioner

H1007-0033

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO PARAGRAPH 4 OF THE ORDER OF THE TRIBUNAL DATED 13 MARCH 1946.

6 July 1946

COMMISSIONER:

Colonel A. M. S. Neave

THE S. S.

(THE COMMISSION CONVENED AT 1055 HOURS)

FREIHERR FRIEDRICH KARL von EBERSTEIN a witness, took the stand and testified asfollows:

BY THE COMMISSIONER:

Q Witness, will you state your full name?

A Freiherr Friedrich Karl von Eberstein.

Q Raise your right hand and repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath).

THE COMMISSIONER: You may sit down. Dr. Pelckmann, will you give us a brief statement of the matters this witness is going to bring up?

DR. PELCKMANN: First of all, the reasons behind the carrying out of the shootings of the 30th of June, 1934.

THE COMMISSIONER: Wait one minute. Is this the first witness we have had regarding the SS shootings?

DR. PELCKMANN: No.

THE COMMISSIONER: Who was the other witness?

DR. PELCKMANN: That was Joehnk. The witness Joehnk was a man who participated in the shootings while this Freiherr von Eberstein was a so-called Oberabschnittfuehrer at the time of these shootings.

THE COMMISSIONER: Will you try to be careful and not cover the same matters?

DR. PELCKMANN: Yes, sir. Second, the non-participation of the SS during the demonstrations of the 9th of November 1938 and special consideration of written orders by Heydrich; third, the position of the Higher SS

H1007 - 0034

and Police Leader within the country, that is, within the Homeland. He did not have any power or jurisdiction over the police and was not in any way responsible to the concentration camps.

Fourth, the action against Dr. Rascha and the bioligical experiments.

COLONEL NEAVE: Dr. Pelckmann, your first point I think should not be very long as it has been largely covered here. As far as the event of 1938 goes, we had a certain amount of evidence on that already. In regard to the other two matters, I want to warn you we have until one o'clock today to finish the witness, including cross-examination.

DR. PELCKMANN: Of course, I will attempt to be as brief as possible. It is true that concerning the events of November 19, 1938, we did have some statements at various times from some witnesses, however, we never had any specific evidence given by anyone concerning the orders and what happened that night.

COLONEL NEAVE: Let us get on.

DR. PELCKMANN: First, in case I amnot finished with this witness, I would like to point out that this witness arrived here on June 19th and it was impossible tobring him here earlier. I believe in a special case like this that the court may extend the period over the July 6th date.

COLONEL NEAVE: I don't call this case exceptional, at all, if the witnesshas been here since June 19th. I think the thing to do now is to get started on the examination.

BY DR. PELCKMANN:

Q Witness, before we start I want to repeat to you the request of the court that we be as brief as possible.

Give the dates and organizations to which you have belonged.

A I entered the party in October of 1922. I entered the SA in 1925 and remained until 1926. I then belonged to it again from 1930 to 1933. I entered the Allegemeine SS in 1928 until 1930 and then again in 1933 and I remained in it until 1945. I entered the Waffen SS on thelst of July, 1944 and remained with it until the end of the war.

Q What position did you have in June 1934?

A At the time I was in charge of the SS Oberabschmitt Mitte in Dresden. I did not have the public position.

H1007 - 0035

Q Were you used on June 30th, 1934, with the SS units in your Oberabschmitt?

A No, a week before the June 30th event, I was called to Berlin by plane to Himmler's headquarters. He told me that Roehm was planning a putsch. I was also told to getin contact with the army district commander and also to have some kind of quiet alert within the Allegemeine SS in my Oberabschmitt. I am speaking of the directives I received from Himmler at the time, I was told that in case the official alert was given the Allegemeine SS units under my command were to be as far as possible in Barracks, either in the Barracks of the Reichswehr of the army or of the police, however, we did not participate in it since it was relatively quiet in Saxony.

Q On July 1, 1934, eight members of the SA party were shot. Is that correct?

A Yes, there were members shot on July 1, 1934.

Q Did you see such an order ofexecution? How did it happen and whose signature did it have on it?

A Yes, I did see such an execution order on June 30th. Obersturmbahnfuehrer Bonte of the SD, who was not under my jurisdiction, came to me with a request for advice, which I was supposed to give as a friend of his. It was completely unclear from this report on the names of the 28 persons and we were not sure whether these people were to be arrested or shot. I therefore advised them to make a decision as to who was to be arrested and who was shot. I therefore advised that a decision should be made as to who was to be arrested, and who was to be shot, as this order wasnot clear to me. He told me it was a special order from Heydrich. I therefore asked him to immediately request more detailed information from Heydrich in Berlin and I warned him not to make any quick decisions. Thereupon courier was sent by car to Berlin to Heydrich and he returned later on with an order to execute eight not twenty eight members. The reportstated as follows: "On order of the Reichs Fuehrer of Germany, the following named: (The names followed) are to be executed for high treason. Under that was the signature of Heydrich the signature which I knew personally and this order contained the seal of the office that had issued this order.

Q Did you have, after receiving this order, any kind ofthoughts as to whether this order was lawful or not?

H1007 - 0036

A. No, I did believe that there was such a putsch planned and especially since I had been advised of this putsch by Himmler personally. Moreover I had seen the signature of Heydrich personally, and I know what position he had. In addition to that, it was impossible for me to have a view of the entire happenings within Germany and I had a relatively small view. In addition, these eight people were well known to me as bad elements

H1007-0037

and terrorists.

Q Do you want to tell us once more in a short time what role you and the Allegemeine SS played in Saxony at that time?

A I carried out an orderly discussion with the army district chief personally. The Alegemeine SS, after the alarm had been sounded, was brought together in the barracks and stayed there during the critical days. I know for instance that no SS men were on the streets during these days. For instance in Dresde the largest town they were in the barracks and were in the police barracks and the arrests were carried out by the Bevoitschafts-group. The executions were carried out by the Reichstruppen-fuehrer of Saxonia.

Q What position did you have on November 9, 1938.

A I was SS Obersturmbannfuehrer south in Munich, also since 1936 I was police president of Munich, also since 1937 I was chief of police in the office of the Minister of the Interior in Bavaria.

Q Where you in the main ballroom of the old city hall in Munich at the time Goebbels was supposed to have made the sppech which resulted in the demonstration of November 9th?

A No, I was not present during that speech. I had to escort Hitler to his home and later on did not return to the ball-room since I was in charge of the security measures and the street blocks which were put up in Munich for the swearing in of the SS.

Q Where did you hear for the first time of demonstrations against Jewish stores?

A I received the first report or the first indication that something like that might happen when I was told around 2330 that evening that a synagogue was burning. I was also a few moments later told by the Landradt of the area administration that the Castle Planeck burning and the police were asking for reinforcements.

I immediately ordered Brigadefuehrer Diehm to go to the syna-gogue. I also ordered a riot squad to go to the Castle Planeck.

H1007 - 0038

I personally could not leave my position as I expected Hitler within a few moments.

Q When did you hear of the actual happenings of these demonstrations and what did you do about them?

A Around 0130 hours and it was now the 10th of November. I was immediately ordered to come to Himmler in the Hotel Vierjahreszerten where other high SS leaders were. I was told there by the assistant Gauleiter of Munich, Niepold, immediately after Hitler and I left the ballroom, Goebbels had started a hate speech against the Jews, which resulted in these demonstrations. He asked me to help him and both of us immediately entered a car and drove through the city in order to get some kind of indication as to the extent of these demonstrations. I notice that a big Jewish store, Bach's, was burning and that the fire fighters were working at the fire. I immediately aided the fire fighters there and was nearly killed through furniture that was thrown out of the top floors. I then drove on a way and talked with the antique store owner, Berheimer and we through out some people that had entered the store.

COLONEL NEAVE: This is a very graphic description of the events of November 9th, 1938, but I think it should be confined to a little less personal reminiscences and more to the actions of the SS as a whole.

We will recess for five minutes and Commissioner Taylor will preside.

(THE COMMISSION RECESSED AT 1130 HOURS.)

(FOLLOWING RECESS.)

COMMISSIONER TAYLOR: Proceed with the examination.

DIRECT EXAMINATION - RESUMED.

BY DR. PELCMANN:

Q You were in the process of telling us that fire fighters were fighting the fires throughout the city.

A Immediately after seeing what happened, I called all

H1007 – 0039

available police forces into the streets. The Allegemeine SS, which was in the process of formation and leaving. I immediately ordered all Jewish stores to be put under police guard. I also ordered that all streets were to be cleared of pedestrians and directed the local repair organizations to immediately nail up the damaged stores in order to prevent any kind of theft. I immediately carried out these actions in my function as police president. I want to state here and now and I am under oath that I had no previous knowledge of these demonstrations.

Q Did you get the riot squad to go out to the Castle Planeck, belonging to Hirsch and arrest the participants?

A As I stated before, immediately upon being informed by the Landrat, I sent out the riot squad with the duty to arrest the culprits and to bring about law and order and to put out the fire.

Q Did you give any sort of orders to the Allegemeine SS, which was under your command?

A Yes, I immediately, as I stated already, sent the Abschnittsfuehrer to the synagogue. I expressedly forbade any member of the SS to participate in these demonstrations and I threatened severe penalties.

Q What was he supposed to do at the Synagogue?

A I sent Abschnittsfuehrer Dean there because the fire fighters were being hampered and I wanted him to prevent that.

Q Do you know that in a teletype message to all Gestapo officers and offices Heydrick mentioned the possibility that members of the Allegemeine SS might be used for police duty?

A I did not hear of this teletype message at the time and as I have already stated I was constantly in the streets, however, it is possible that I did not read the teletype message the next day in police headquarters. I want to state here that I did not receive any kind of request from the Gestapo for use of the members of the Allegemeine SS.

Q In other words you did carry out all these measures to

H1007 - 0040

prevent the demonstration and everything in your power as police president and Obersturm bannfuehrer of the SS?

A I acted completely independently, as I did not receive any orders from headquarters. I acted in my capacity as police president, as a German civil servant and as a decent person.

Q Did members of the Allegemeine SS participate in the demonstrations against your orders?

A I know that no members of the Allegemeine SS participat in these measures, with one exception when about twelve or fifteen members of the SS Riding School Fegelein, members not under my jurisdiction but under the leadership of the well known Christian Weber went out to Munich went out to the Castle mentioned and fired that castle. This occurred without my knowledge I reported these matters directly to my superior Minister Wagner in order that a court proceeding be started against these people. This report was without any results since Weber, the personal responsible for this action, was one of the few very close friend of Hitler.

Q Did you have any information of the action of the Allegemeine SS in the other cities of Bavaria?

A Yes, the next day from reports which came to the Inner Police Department of the Ministry of the Interior in Bavaria, I saw reports that the SS in Nurnberg did not participate in these demonstrations. The Oberfuehrer Dr. Martin acted very severely against these demonstrations.

Q One other point, what can you say about the activities of the Allegemeine SS during the war?

A The duties within the Allegemeine SS subsided almost completely during the war and all the staffs up to and including the Standartenstaff were closed down. Before the war there were 10,000 Allegemeine SS men in my area and when the People's army was called up during the war there was only 1,200 men remaining in my area. My command was over an entire army corps district. All these 1,200 men were active in the war industries and could

H1007 - 0041

not be called together for any kind of SS formations anymore.

Q When you say Kriegeinsatz, you mean the Civil war activities?

A Yes, the only support within the Allegemeine SS was the support that was given to the SS welfare organization, which helped the wounded and also helped the families of our dead. Eve for that, there were not enough members and we had to use suppor ing members, which were not even members of the SS and even wome for this job.

H1007 - 0042

A A single mission which was carried out in Munich during the war showed a total number of 150 participants. In the war there were a total of two oberabschimitt staffa in my area, one in my area in Augsburg, with two or three men, and one in Munich with four or five, and my oberabschimitt staff in Munich contained forty-five persons, including female helpers.

Q Since when we e you a higher SS and police leader?

A I was suggested as a higher and Ss police leader through the order of the Reich Minister of the Interior since 1938. This decree given out in 1938 was part of the mobilization decree which was a top secret. Actually, I only became reichsfuehrer of the higher SS and police leaders in 1939, when the wa started.

Q Did you in that position as higher SS and police leader have any jurisdiction over the Allgemeine or the Waffen SS?

A Any kind of jurisdiction of the higher SS and police leaders of the Allgemeine SS was at the same time by the chief of the Oberabschmitt of the Allgemeine SS. The higher police leaders did not have any juridiction over the Waffen SS.

Q Were there any cases in which the higher SS and police leader was not at the same time Oberabschmittfuehrer of the Allgemeine?

A For instance the higher SS and police leader Heismeyer in Berlin was not the oberabschmittfuehrer in that area of the Allgemeine SS. I also was higher SS and police leader until January 1943 of the corps area not only in area 13 which belonged to the SS oberabschmitt 9, even though there was an Oberabschmittfuehrer here, first obergruppenfuehrer Schmause and then obergruppenfuehrer Dr. Martin.

MR TAYLOR: What time was agreed upon for cross examination of this witn

MR ELWYN JONES: We havn't gone into details about that but I should like half an hour, which is five times more than the defense should take.

DR. PELKMANN: I believe that the order of the Court cannot be taken quite so literally as to mean that if the witness is in the middle of examination or of cross examination at one o'clock this afternoon that he would not receiv another half hour or an hour on Monday, and since this witness is a civilian witness -

MR ELWYN JONES: I should be glad to limit my cross examination to half

H1007 - 0043

an hour and I should hope that the defense could finish his direct examinatior

MR. TAYLOR: You und rstand, doctor, this commission goes out of operatic at one o'clock today, and it is my understanding that Commissioner Colonel Neave has advised all defense attorneys that the time of three hours would be the limit for each witness.

BY DR. PELKMANN: But this witness did not start at ten o'clock.

MR. TAYLOR: I am pretty sure that defense counsel can get the rest of hi questions in here that are material to the defense by twelve-thirty, and the Prosecution will then have thirty minutes for cross examination, and after tha if they want to use him again, I take it you have the privilege to make application to the Commissioners for that further examination. At this time the Commission is asking that the Defense condense his questions and get everything you can within the next thirty minutes so that the Prosecution will have the remaining thirty minutes for cross examination.

DR. PELKMANN: I will try to condense my questions. However, I do want to state that since the witness was approved for me to be heard today, and actuall since the witness did not start at ten O'clock I did not get the three hours of examination which are otherwise permitted.

MR TAYLOR: Doctor, the three hours permitted by Colonel Neave was both for direct and cross examintion, and the attorneys have had sufficient time within the last week or two to know that. Proceed with your examination.

DR. PELKMANN: But this witness does not even get three hours for direct examination.

MR. TAYLOR: Let's proceed with the examination.

BY DR. PELKMANN:

Q Describe shortly the duties and activities of a higher SS and police officer in Germany?

A It was the duty mostly of the higher SS and po ice leaders to be the representatives of the Reichsfuehrer of the SS and Chief of the German Police in this particular army or corps area when in Germany.

Q According to the outlines of the duties of this higher SS and police leader in 1938, this higher SS and police leader had the right, but not the dut to carry out suggestions and make suggestions?

A He did not have any jurisdiction over the police or the Waffen SS. That

was in the directive of the Reich Minister of the Interior of 1938. According to this order the main office Chief, for instance, the chief of the main offic of the security police were the official chiefs of the above mentioned police forces. They, according to the very clear order, were the representatives of the Reich Fuehrer SS for those organizations. They used the channels of their own organizations and besides that was the channel of the Reichsfuehrer SS. I have given the defense a sketch of these channels. The orders and decrees that went to them came to the knowledge of the higher SS and probably the officials and only for information. The higher SS and police leaders did not have any staffs, they were only carried by the Reich Minister of the Interior as member of the order police, that is in their own personal position, that is, until the year 1941, when they became Generals, that is, Major Generals of the polic. All war workers were commandeered. Therefore, the higher SS and police leaders can be described best as local officers of the Commanders. They had much too little responsibility and jurisdiction for such a job. I regard the creation of a position of the higher SS and police leaders as a futile effort of Himmler to create a state security corps. This state security corps was never actually carried out or organized. The Prosecution uses as one of it's exhibits the book the Die Deutsch Polizei by Dr. Best, and the pocket calendar given to the security police as part of it's exhibits against the Gestapo. What Dr. Best writes in that book is incorrect since he goes from the standpoint of a state security corps that is organized in the State. Especially striking on these SS and police leaders was the influence of the local gauleiter, who carried out their position as Reich defense Commissar and as the Minister of the Interior of these States. In many ways these Gauleiters in their position as Reich Ministers received all kinds of aid from the Almighty Bormann, while higher SS and police leaders did not receive any kind of aid or help from Himmler. I cannot make any statements as to the activity of the higher SS and police leaders in the occupied countries since I do not have any personal experience as far as that is concerned. The duties were the following:

First of all the duties were as follows: The higher SS police leader was a direct representative of Himmler, at all official functions of the Party, the State or the Army. Actually it was his duty to insure close cooperation between all offices under Himmler in the area of the Party, State and Army. Thirdly,

the higher SS and police leaders had to insure a close cooperation between both SS and police as a unified course in big events, such as security measure and the road blocks and cutting off certain areas during any kind of Party Rally duties, state visits or catastrophies. Also he had to take the position of gerichtsherr in the SS and police court of his particular corps area. He did not have, however, the position of gerichtsherr due to his jurisdiction, but only since he was the highest ranking SS and police officer in his own area, that is unlike the position in the Army. He did not have any diciplinary powers of the SS and police. He only had diciplinary powers on the Allgemeine SS and he was oberabschmittsfuehrer, and, fifth, it was his duty to combine the SS and police units upon the order of the higher SS and police leaders in order to throw down any interior demonstrations and riots. Since

H1007 - 0045

H1007 - 0046

1943 the Reich Defense Commissars were responsible for that also.

Q Were there any such cases of interior disturbances?

A No, never.

Q In other words, if I understand you correctly, you did not have any jurisdiction and power to order at all, but you only had the position and chance and possibility of inspection and you could make suggestions?

A Yes, the higher SS and police leaders did not have any jurisdiction.

Q The witness, Albart, before the Commission stated on the 11th of June, as a witness for the Gestapo, that there was a liaison man with the higher SS and police leaders who insured the use of concentration camps inmates for industrial work, is that correct?

A There was no such liaison man connected with my office and I do not know of any higher SS police leaders that did have such a liaison man. The use of the concentration camp inmates was regulated by the local employment offices in connection with the concentration camp headquarters.

Q Were you responsible for work camps of the concentration camps?

A No, I do not even know the detail of work camps. I suppose they were the camps that were created near or with the national defense industries where concentration camp inmates were used for work for these national defense industries.

Q In this area was the concentration camp Dachau. Did you have anything to do with this camp officially?

A This concentration camp Dachau was in my area. However, until the fall of 1944 the higher SS and police leaders and also the oberabschnitts-fuehrer of the Allgemeine SS did not have anything to do with these concentration camps. The concentration camp was a completely independent and separate organization and area with its own channels of communication and so forth.

Q Did you ever hear of any mass extermination in the concentration camp Dachau?

A No never.

Q In the trial in the main court an affidavit by a Mr. Mildner was presented with the following contents:

According to this the deportation of Jews sent to work in the concentrat

H1007 – 0047

camps of Jews in the Reich or in the areas that were occupied by German army units, these orders came from the Reichsfuehrer SS Himmler. These orders were also directed to the local higher SS and police officers. It continues and I skip over a few lines: "The liaison man of the Jewish questions to the higher SS and police leaders was obersturmbannfuehrer Eichmann." I quote from the document PS 2376, is that correct?

A As far as I know these orders went directly to the State Gestapo office and the Gestapo main offices.

Q Was Eichmann a liaison man with you.

A I don't know Mr. Eichmann and never heard of him with the exception of this trial. There was no necessity for a liaison man of Himmler concerning the Jewish question.

Q Why?

A Because we had nothing to do with him.

Q Do you know that biological experiments were carried out in the concentration camp Dachau on human beings?

A I did not know it until the spring of 1944.

MR. TAYLOR: I think that is enough. There is nothing for him to explain about it if he don't know anything about it. If it is what he knows now that is hearsay and wouldn't be admissible.

DR. PELCKMANN: The witness is going to explain now that he did hear it.

MR. TAYLOR: What year is that?

DR. PELKMANN: In the spring of 1944.

MR. TAYLOR: All right, proceed.

WITNESS:

A I did accidently hear in the spring of 1944 while concerning myself with an investigation with the wife of the Hauptsturmfuehrer, Dr. Siegmund Rascher. A criminal police in Munich asked me to give him or receive a permission to enter the concentration camp because a lead was leading towards it. I forced them to give me such a permission with the inspector for the entire concentration camp at Oranienburg, who was responsible for the administration of all concentration camps. According

to the camp commander the camp chief medical officer and SS Fuehrer they very willingly explained some very interesting far reaching experiments upon living human beings.

MR. TAYLOR: Let's have him get to the point and answer the question without all of that detailed explanation.

BY DR. PELKMANN:

Q Did you bring about the arrest of Dr. Rascher?

A Yes, I caused the arrest of Dr. Rascher since he was the responsible person, and, therefore, saw to it that this crime was not carried out any more.

Q Is it correct that all investigations were very difficult in this matter since Himmler was well acquainted with the family of Rascher.

A Yes, the criminal police had asked me for my cooperation and Himmler personally made the strongest accusations against me because of that.

MR. TAYLOR: Doctor, it is twenty minutes to one and I think we should start cross examination which will now carry us over to one-ten.

DR. PELKMANN: However, I want to point out especially that I do request that I be permitted to continue to hear this witness again later on within the next few weeks.

MR. TAYLOR: That request, Doctor, you can make to the Commissioner, but he has asked me to close today at one o'clock as far as witnesses in this commission are concerned, and we are supposed to close at one o'clock. We will proceed with cross examination.

CROSS EXAMINATION

BY MR. ELWYN JONES:

Q What did you charge Rascher with?

A It concerned the question of his wife and at that time I heard accidentally from the leader out there that Rascher carried out such criminal experiments.

Q I asked you what you charged him with?

A He was charged with unclean business activities and that was one of the matters that were taken into consideration or one of the matters he was charged with, and, thereupon, I reported this to Himmler who decided that the person was to come before a trial. However, I personally could

H1007-0048

H1007-0049

not directly charge him with anything.

Q What happened to Rascher?

A Himmler, as the highest officer took the case under his own jurisdiction and I personally could not do anything about it, even though I protested several times, and this case was never handed over to the Courts by Himmler.

Q And that was typical of conditions in the Nazi State and typical of the SS view of these murders, wasn't it? That you should charge these mass murderers with mere fraud and that the fact he should not even be tried by a proper authority even upon fraud.

A I do not know anything of that, but the criminal was arrested and that he was not sentenced was caused by the Reichsfuehrer of the SS.

Q How often did you go to Dachau to the camp?

A I went to Dachau very often since I had to escort visitors, both foreign and national figures there, as a representative of the Reich Commission.

Q When did they start exterminating people at Dachau? I asked you when did they start exterminating people at Dachau?

A I already have stated to the defense attorney before that I did not know anything of mass exterminations.

Q When did you discover they were going on?

A When I asked concerning Dr. Rascher.

Q I am asking you when did you first discover people, especially Jews, were being exterminated as a deliberate policy of the Nazi party?

A As I have already stated I only heard of the criminal action of Dr. Rascher in the spring of 1944. If there were Jews I do not know.

H1007 - 0050

Q Do you know anything of an investigation Commission from the SS court, which is supposed to have made some inquiry into conditions of the concentration camps?

A Yes, I know that from descriptions of my comrades.

Q Did you take any part in that also?

A No, I did not participate.

Q It was a curious thing, as you see, you are a higher SS leader and police leader, where this terrible camp Dachau was and you didn't know anything of this?

A I can't say anything concerning this.

Q Well, this Commission, according to the witness we heard yesterday, was supposed to have been operating in 1943.

A In 1943 I did not have the official right to be officially active in concentration camps. I did not have a possibility of knowing.

Q Did you ever make any inquiry to find out what was going on there?

A I did not have the possibility, Mr. Prosecutor, to bring about any such investigation.

Q You could send your men into camp at any time, couldn't you, as you did in the Rascher inquiry.

A As I have already stated it was not possible for me to send a person in any time, after I received it. As I have stated already I forced them more or less to give it to me by sending them a teletype message in Oranienburg saying to him I was following up a criminal case and that it was necessary that I enter the concentration camp. Of course, I had to have their permission.

Q You stated you took no part in the pogrom of November 1938?

A I did not participate.

Q I suggest to you that the SS in particular operated that pogrom as against the Jewish people in Germany?

A That was not the case in Munich.

Q Did you not receive from Heydrich an instruction from Munich telling you exactly what functions of the police were to be during this horrible incident, the blackest mark in German history?

A I suppose the Prosecution is referring to a teletype message.

H1007-0051

Q I think you know quite well what I mean.

A I did not see this teletype message during the demonstration since I was in the States.

Q But you see it was sent to all headquarters and stations of the state police and to all districts and sub-districts of the SD. How is it you did not receive a copy of it before the riots took place? For the purpose of the record I am referring to 3051 PS Exhibit US 240.

A In November 1938, I had no relation whatsoever with the security police and the Gestapo, and if I did see it later on, a matter which I do not deny, this letter was without any very great importance to me since the riots had ended already due to my intervention in Munich.

Q So it is your impression that you did receive this teletype but not until after the riots were over, is that your testimony?

A I did not state I received the letter. It is possible I said that I did see it later on, that somebody brought it to my attention.

Q I am just trying to get a frank statement from you about it all. Did you see this or did you not?

A I don't know. I don't want to deny that I saw it, it is possible that the Gestapo Chief showed it to me but it did not interest me any more since the whole matter was finished already.

Q Let me just remind you what the instructions were that Heydrich was giving for this pogrom. He says:

"The Chiefs of the State Police and their deputies must get in telephonic contact with the political leaders, gauleiters and kreisleiters, who have jurisdiction of their districts, and shall arrange a joint meeting with the chief of the security and order police to discuss this organization of the demonstration."

Now those are the instructions that at any rate were sent to the headquarters of the State Police. I want to ask you did you in fact contact the political leaders after this teletype ordered you to?

A I was not a member of the Gestapo at the time. I did not receive the letter during the action, and, therefore, did not make any contacts with the political leaders.

Q You see the fourth paragraph, it says:

H1007-0052

"In order to carry out these measures, all security police, officers of the criminal police, as well as members of the SD and verfuegungstruppe and the Allgemeine SS may be used."

Now that, I suggest, established quite clearly that the SS was directly implicated in the program of November 1938?

A I want to refer back to my statement I made before. If I am correctly informed the document has the date of the 10th of November, 1938, at four-thirty in the morning, and at that time I was in the street attempting to end these demonstrations as fast as possible.

Q I am suggesting to you that the document shows quite clearly that the SS played an active role in the perpetration of these atrocities in November 1938.

A I did not order out any SS units and so I do not know of participation by SS members with the exception of the twelve or fifteen men I have already mentioned in these demonstrations in Munich.

Q Did you ever serve as a higher SS and police leader outside of Germany?

A No, I was not. Since 1936 until 1945 I served without any interruption in Munich.

Q Did you have any knowledge of the activities of this order in Poland, for instance?

A No.

Q Were you not getting reports from the various police organizations as to what was going on in the East of Europe?

A I received some reports of activities from the main office of the order police, but I believe in about 1941 these reports stopped coming in.

Q Did you get no reports from the Einsatz Commanders on their perpetration of mass murders?

A No, I cannot remember having received any such reports. We in the homeland were not concerned with this.

Q Now the last point I have time for. How many men were murdered on the 30th of June 1934?

A I know of six persons who were shot in Dresden, and I heard later of two persons who were shot in Chemnitz and one in Planen.

H1007-0053

Q Do you mean to say you only of ten persons who were shot on this day?

A In my area that is all I heard and otherwise concerning the rest of Germany I only heard what Hitler said in his Reichstag speech.

Q Will you agree with Wilhelm Frick who says that something like a hundred and even more were killed?

A Since I did not have a chance to see the entire matter I cannot make any certain statements of numbers under oath.

Q You are not suggesting to the Commission, are you, that these murders were a legal activity, the murder of Schleicher, for instance, or Gregor Strasser, and the rest of them, you are not suggesting that those murders were legal?

A I do not know what the circumstances leading to the shooting of Schleicher and Strasser were.

Q You know the circumstances quite well. They were shot on the spot. Are you suggesting that those shootings were legal?

A I can't charge that.

Q But can't you charge it?

A The persons that were shot in my area were shot according to an order which I had in my own hands according to the Reich Fuehrer and Hitler.

Q They were shot because you saw a piece of paper which had on the bottom the signature of Heydrich on it, and which stated that people should be killed, and that

H1007-0054

is all you knew about it?

A. I say that the matter became even more legal due to the speech of Hitler before the entire German people in which he stated that the German government considered these shootings as legal and at that time still the Reich President Von Hindenburg agreed with that.

Q. And since Hitler made a speech several days after these murders took place you were quite happy about it?

A. I only can make statements concerning what I have seen personally and what happened to me personally. There in my area these persons were wild terrorists. They were persons that even acted against the Party and State and they beat up policemen and smashed up large stores and so on.

MR. TAYLOR: That is not responsive to the question. Counsel didn't ask you for an explanation, he asked you whether or not when you heard Hitler's speech it made you happy. Just answer the question "yes" or "no".

WITNESS:

A. I was not happy about it but I was giving an explanation of the Reich Government.

BY MR. ELWYN JONES:

Q. These shootings of the 30th of June were appalling, weren't they?

A. I did not see them personally, but I will agree that all of these things were appalling and all of these inner political fights were always appalling.

Q. These were not political matters, they were plain murders, that is what they were?

A. I am not of the opinion that this was murder, since in this case there had been a state emergency that the state had declared, and therefore, I did not regard them as illegal.

MR. TAYLOR: The commission will adjourn.

(The Commission adjourned at 1315 hours, 6 July 1946)

H1007-0055

The foregoing is a true and correct transcript of the testimony of KARL EBERSTEIN taken on 6 July 1946.

Mabel A. Lesser
Reporter

Rose W. Cook
Reporter

CERTIFIED TO:

A.M.S. Neave
Commissioner